

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ANTHONY GILMORE,

Petitioner,

v.

BROOKS, Superintendent,

Respondent.

Civil Action NO. 04-358 Erie

MEMORANDUM ORDER

This petition for writ of habeas corpus was received by the Clerk of Court on December 8, 2004, and was referred to United States Chief Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation, filed on March 7, 2006, recommended that the petition for writ of habeas corpus be dismissed as untimely and that a certificate of appealability be denied. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Petitioner by certified mail at SCI Albion, where he is incarcerated, and on Respondent. Objections were filed by Petitioner on March 23, 2006. After de novo review of the petition and documents in the case, together with the Report and Recommendation and objections thereto, the following order is entered:

AND NOW, this 27th Day of March, 2006;

IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus is DISMISSED as untimely and that a certificate of appealability is DENIED.

The Report and Recommendation of Magistrate Judge Baxter, dated March 7, 2006 [Doc. 15] is adopted as the opinion of the Court.

/s/ Sean J. McLaughlin
United States District Judge

cm: All parties of record.
Susan Paradise Baxter
U.S. Chief Magistrate Judge